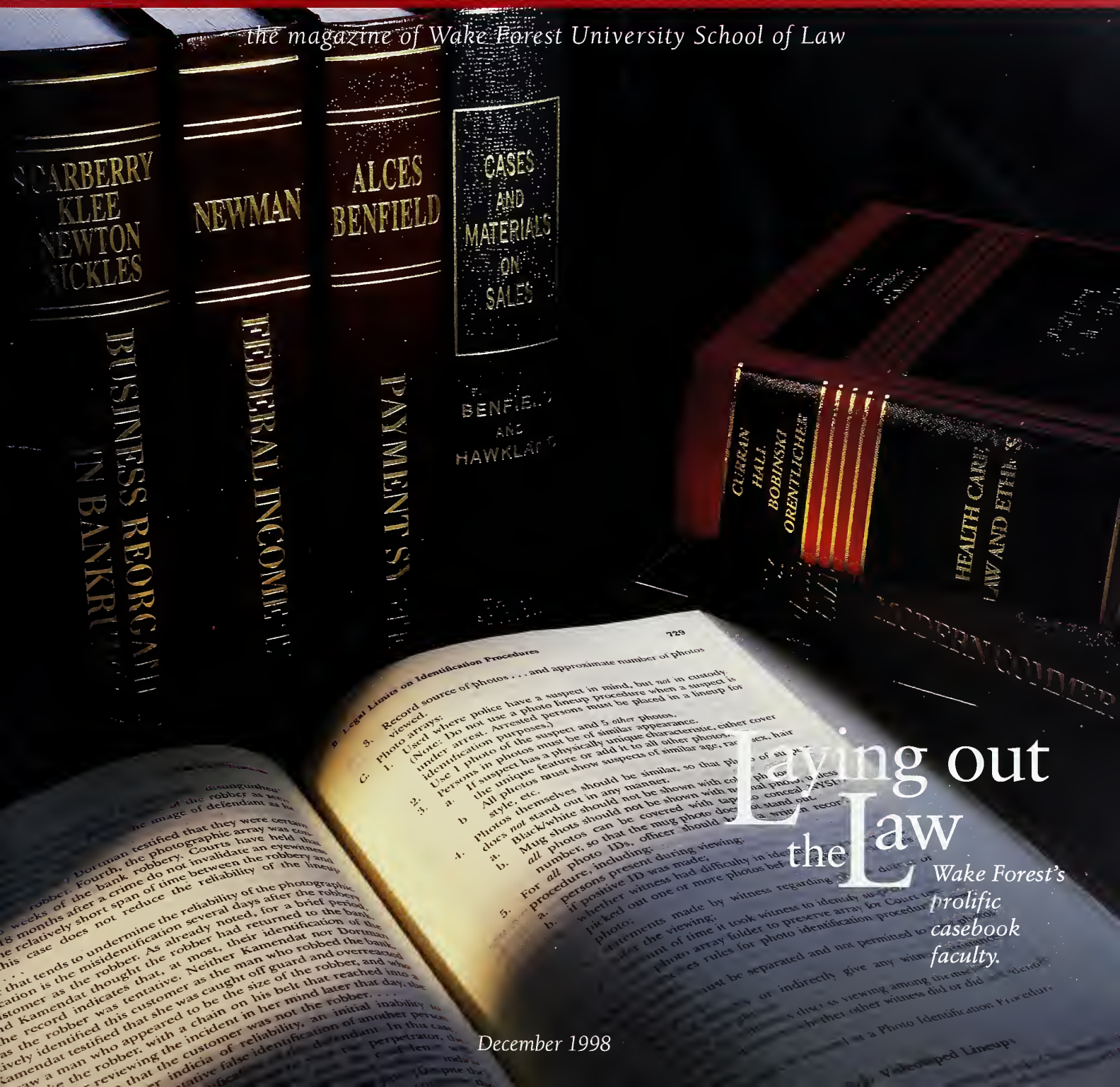


# Wake Forest JURIST

the magazine of Wake Forest University School of Law



Leaving out  
the Law

Wake Forest's  
prolific  
casebook  
faculty.

December 1998

*'Wake Forest has been successful because each generation gave back to its law school, supporting the next generation.'*

**R**ecently, I received from the dean of a state law school a listing of the infamous U.S. News & World Report top 50 law schools ranking reordered to go from the lowest to the highest tuition. Of course, the public schools with their taxpayers' support were all at the front in such a listing. What is interesting is that Wake Forest had the second lowest private school tuition on the list of the top 50 in this reputational ranking of the 180 ABA-accredited law schools.

On receiving this novel ranking, I was tempted to send out a ranking of the top 50 law schools, indeed all 180 law schools, ranked from best to worst student/faculty ratio. Such a ranking would put Wake Forest pretty near the top of the list of all law schools, whether private or state supported. Our student/faculty ratio of 13.8-1 enables us to have a program of legal education second to none.

When Coach Vince Lombardi was asked about the success of his Green Bay Packer teams, he said that winning football really just boiled down to which team did the fundamentals best. The education of a lawyer begins with the fundamental skills taught in the first year of law school: legal analysis, research, and writing. Under the 440 Plan, we have the smallest sections of all first-year courses in the nation. Moreover, our first-year Legal Research and Writing course is taught in eight sections of 20 students each. Many schools with far higher student/faculty ratios still teach these first-year courses in very large sections.

A great number of our courses in the upper years are also taught in small sections with similar educational gain. As to our clinical offerings, approximately 50 percent of our graduates are able to elect and take a client-contact clinic before

graduation compared to an ABA school average of only 20 percent of graduates. At many large schools, students elect to have a clinical experience, but are lotteried out of these limited enrollment courses so that they cannot take them even through graduation. This does not happen at Wake Forest.

All of this is to say that Wake Forest remains what I believe you will agree it was when you attended: for a private school, it is a "best buy." Our students, even those without any scholarship aid, pay less than two-thirds of the true cost of their education. We have been able to keep our private school tuition relatively low with your great help in supplementing tuition income with financial resources from our fund-raising efforts.

Nevertheless, despite the fact that Wake Forest is a best buy, we must recognize that we are a private school that for the first time has a tuition of over \$20,000 a year. For us, this brings a danger of changing the nature of our student body and excluding an increasing number of students who really want a Wake Forest education, simply because of financial inability. This is why our top three fund-raising priorities over the last several years have always been listed as scholarships, scholarships, and scholarships. We have made a great deal of progress on this important issue. Several alumni have made significant gifts for student scholarships, and the Law Alumni Council has created a special financial aid fund from its continuing program to increase giving to the annual fund. The university agreed that any increase in giving to the annual fund would all go to the Law Alumni Council Scholarship Fund for students. By these efforts, we have increased our scholarships from 9 percent to 16 percent of total tuition and fee income this year. Our goal is to move this significantly higher with a greater percentage of our students receiving scholarship aid.

Wake Forest has been successful because each generation gave back to its law school, supporting the next generation. I hope you will remember that a previous generation made Wake Forest a best buy for you when you received your law degree, enabling you to earn your livelihood as a member of a great profession. As you receive your annual fund solicitation, I hope that you will help us make certain that a Wake Forest legal education remains affordable for more students well into the next millennium. ☺



Robert K. Walsh  
Dean



# Wake Forest JURIST

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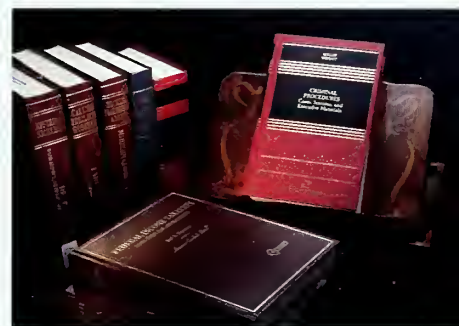
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## Order of Honor

*School of Law awarded elite  
Order of the Coif*

The quality of education offered at the Wake Forest University School of Law was recognized and lauded earlier this year with the School's acceptance into the elite Order of the Coif.

Established in America in the early twentieth century, Order of the Coif is the highest academic honor that may be bestowed on a law graduate; it is viewed by many as the law school equivalent of Phi Beta Kappa. As with Phi Beta Kappa, the top 10 percent of each graduating class is eligible for election to the Order of the Coif.

The Wake Forest Chapter of Order of the Coif was formed in May. Forty-five alumni and one professor were selected as charter members. Other Wake Forest law professors who became members when they were law students also are members of the Wake Forest chapter.

Ralph A. Peebles, associate dean for academic affairs, said the School petitioned the Order of the Coif for membership about two years ago, and the selection process included a site inspection and evaluation by the Order's executive committee. The committee considered the caliber of the School's scholar-teachers, its students, its programs, and its facilities in deciding to extend membership to Wake Forest.

"In summary, the members of the inspection team were impressed by the quality of the Wake Forest School of Law in every respect," the committee's report noted. "We believe that Wake Forest meets the criteria for joining those institutions that have chapters of the Order of the Coif."

Order of the Coif had its origin in England about 1117 and was one of the most honored institutions of the common law. It was an exclusive association of lawyers, and only its members were privileged to appear in the principal common law court, the Court of Common Pleas. Judges of the Court of Common Pleas, and later judges of the King's Bench and the Exchequer, were appointed exclusively from the Order's membership. The association took its name from the word used to designate the cap that all

members of the Order were required to wear. Originally of white lawn or silk, it was to be taken off only in passing a sentence of death.

The English Order began to lose power in the nineteenth century, when people became dissatisfied about its exclusivity, and it dissolved in 1877.

In 1902 in America, the College of Law of the University of Illinois formed a society to recognize high academic attainment and adopted the name Theta Kappa Nu. In 1907 at Northwestern University School of Law, a society called the Order of the Coif began for the same purpose. The two organizations merged in 1912, and provision was made for the chartering of chapters in law schools that demonstrated the quality of legal education constitutionally specified for admission.

Today, there are more than 75 chapters of the Order in the 180 American Bar Association-accredited law schools. Student eligibility for

membership is restricted to those in the top 10 percent of a graduating class, and Wake Forest's new chapter was allowed to select up to 10 percent of the graduating classes of 1998, 1997, and 1996 for charter membership. Faculty membership is reserved for those who enjoy high distinction for scholarly attainment. Professor George K. Walker—who has taught at Wake Forest since 1972—was elected as a charter member.

The School sent notification letters and membership certificates to the forty-five alumni who were chosen. The next members will be selected in May from the Class of 1999, and another professor also can be elected.

"This is something that was overdue," said Peebles, the secretary of the chapter. "It was belated recognition for the quality of the legal education we have here." △



LONGTIME DEAN OF THE SCHOOL OF LAW CARROLL WEATHERS was honored on October 23 with a road dedicated in his memory. Carroll Weathers Drive now links the Warrell Professional Center, the IS Building, and Pola Residence Hall to Wingate Road. Weathers, who served as dean from 1950 to 1970, oversaw an unprecedented increase in both the School of Law's enrollment and faculty, as well as the construction of the school's first permanent home on the Reynaldo Campus, Corswell Hall.

"Great men who are leaders must be men for their times, and Dean Weathers was that," said Vice President and Counsel Leon Corbett (BA '59, JD '61), who was both a student and colleague of Weathers, in his speech at the dedication ceremony. "The law school today bears the indelible stamp of the man—the reflection of his integrity is in it yet. And so we are pleased to dedicate this street to him. . . . It is the right time and the right place to honor Dean Weathers."

Dean Robert Walsh, above right, had the honor of unveiling the new street sign at the ceremony, which was attended by members of the School of Law's faculty and staff, as well as several members of Carroll Weathers' family.





## Partners Appreciation

*Independent Counsel discussion  
highlights annual Partners' Banquet*

The Office of the Independent Counsel was a good idea in its day, but its day has come and gone, and it ought to be abolished or drastically reformed when it comes up for congressional reauthorization.

That was the consensus of two experts on the topic—one a Wake Forest faculty member and the other an alumnus and partner in a prominent law firm in Washington, D.C.—who spoke at the School of Law's annual Partners' Banquet at the Forsyth Country Club in Winston-Salem on October 23.

More than 200 law school donors and volunteers gathered for an evening of conviviality in appreciation of their support of the school. Since its inception in 1972, the Partners' Program has contributed more than \$7 million in operating support to the law school. For each of the last twelve years, the law school has raised more than \$1 million.

Keynote speakers were Katy J. Harriger, associate professor of politics, and Bobby R. Burchfield ('76), a partner in the firm of Covington and Burling. Harriger has written an authoritative book and numerous articles on the independent counsel and has been quoted widely and been a frequent guest on news and talk shows on the subject over the past year. Burchfield's firm has extensive experience in independent counsel investigations.

Harriger said Congress had "good intentions" when it established the independent counsel during Watergate—to avoid conflict of interest when the Department of Justice investigated a member of the administration. And aside from the Iran-Contra case, she said, special prosecutor investigations have been judged as fair and impartial.

But Harriger said that in the two cases where the president himself has been investigated, the independent counsel has been as controversial as the president. Consequently, "there is concern among the public that the rule of law is as threatened by the independent counsel as it is by the president."

Burchfield cited four fundamental problems with the independent counsel system. First, he said, special prosecutors have "tunnel vision"—they focus on one issue exhaustively. Second, independent counsel staff members are not subjected to "the highest scrutiny," and many of them have personal or political agendas. Third, independent counsels are given blank checks, and the costs of investigations can be exorbitant. And fourth, the statute's "hair trigger" for appointment of a special prosecutor is counterproductive to its intent.

Burchfield said the enabling legislation should be allowed to lapse when Congress considers reauthorization next year. Harriger stopped short of calling for abolition of the office, but acknowledged that substantial reform is needed.

Also at the banquet, Dean Robert K. Walsh introduced Professor Joel Newman, this year's winner of the Justice Joseph Branch Excellence in Teaching Award at the law school. ⚖️

*'There is concern among the public that the rule of law is as threatened by the independent counsel as it is by the president.'*

*This year's Partners' Banquet was an evening of conviviality. Above left: Dean Robert K. Walsh, right, introduces Professor Joel Newman, winner of the Branch Award. Bottom: Keynote speakers Katy J. Harriger, left, and Bobby R. Burchfield (JD '76). Middle: Dean Walsh chats with Dunlop White (JD '91), left, and Jane White (BA '87, JD '92), center.*



## Faculty Notes

CAROL ANDERSON will serve as chair of the Trial Practice CLE Curriculum Committee of the North Carolina Bar Association for 1998-99. She was also nominated to fill a one-year unexpired term on the Board of Governors of the N.C. Academy of Trial Lawyers.

RHODA BILLINGS is serving on the North Carolina General Statutes Commission.

DON CASTLEMAN was the editor for the report of the Estate and Gift Tax Committee of the Tax Section of the ABA. The report appeared in Volume 51 of the *Tax Lawyer* this past summer.

MICHAEL CURTIS' article, "Lincoln, Vandalism, and Anti-War Speech in the Civil War," was published in the *William and Mary Bill of Rights Journal*, and his article, "A Tale of Two Textual Analyses," was published in Volume 66 of the *George Washington Law Review*.

TIM DAVIS published "Student-Athlete Violence Against Women: Defining the Limits of Institutional Responsibility" in the *Washington and Lee Law Review* earlier this year. Professor Davis will serve as the new chair of the Sports Law Section of the American Association of Law Schools in 1999.

MARK HALL has been awarded honorable mention by the Actuarial Education and Research Fund in the James C.H. Anderson Memorial Award competition for his paper "Should the Law Restrict Insurers' Use of Genetic Information? A Guide to Public Policy." The paper will be published in the *American Journal of Actuarial Science*. Professor Hall also published an article entitled "Ethical Practice in Managed Care: A Dose of Realism," in *Annals of Internal Medicine* earlier this year.

KATE MEWHINNEY was reelected to the Board of Directors of the National Academy of Elder Law Attorneys for a second term.

JOEL NEWMAN wrote "Pay Now, Die Later: Taxes, Politics and Preneed Funeral Trusts," which appeared in *Tax Notes* in August. He was the 1998 recipient of the Joseph Branch Excellence in Teaching Award.

DEBBIE PARKER is serving on the North Carolina Bar Association's Appellate Rules Study Committee.

MICHAEL PERRY chaired two panels at the first annual "Law, Culture, and the Humanities" conference held at Georgetown University Law Center. He participated in a conference sponsored by, and held at, Loyola University Los Angeles on his book, *Religion in Politics: Constitutional and Moral Perspectives* (Oxford, 1997). He completed work on his next book, *The Judicial Usurpation of Politics? The Supreme Court and the Fourteenth Amendment*, to be published by Oxford University Press. He is completing a new essay, "What is 'Morality' Anyway?" and has held faculty workshops on it at the University of North Carolina School of Law, at American University, and at the University of San Diego School of Law.

PATRICIA ROBERTS was a speaker and author at the annual meeting of the Real Property Section of the North Carolina Bar Association. Her topic was "Future Interests—A Practical Approach to the Rule Against Perpetuities and More."

TOM ROBERTS was re-elected Communications Director of the ABA's Section on State and Local Government Law at the Toronto annual meeting.

SIMONE ROSE has been selected for the 1998-99 class of Leadership Winston-Salem. This a ten month program that brings various members of the community together to evaluate issues such as race and gender, government, education, health care and the arts.

DICK SCHNEIDER has agreed to serve on a World Bank/International Finance Corporation technical assistance project to Ukraine.

DAVID SHORES' article "Re-examining Continuity of Shareholder Interest in Corporate Reorganizations" was recently published in the *Virginia Tax Review*.

TOM STEELE prepared a paper on "Creating, Building and Managing a Law Practice, or What You Didn't Learn in Law School or College But Now Find Essential to Practicing Law in a Professional Manner" at a November 1998 CLE program of the North Carolina Bar Association.

JAMES TAYLOR gave the 1998 Commencement address at the George Walton Academy in Monroe, Ga.

GEORGE WALKER presented a paper, "Ethics Rules for Arbitrators," at a N.C. Bar Association Dispute Resolution Section program. The paper has been published as Chapter 3 in N.C. Bar Foundation, "Winning at Mediation: Tips and Techniques for Litigators and Mediators" (1998). He was reporter for the N.C. Canons of Ethics for Arbitrators (1998) adopted by the Bar Association at its quarterly board of governors meeting. Walker was co-drafter of the Helsinki Principles on the Law of Maritime Neutrality while he attended the 68th Conference of the International Law Association at Taipei, Taiwan, as chair of the ILA American Branch Committee on Maritime Neutrality. He attended the Naval War College Oceans Law and Policy Department board meeting in Newport, R.I. He won first prize for graphic art at the Sawtooth Center for Visual Art student show. He also exhibited at the lawyer artists show during the N.C. Bar Association annual meeting.

ROBERT WALSH was elected chair-elect of the Section of Legal Education and Admissions to the Bar at the American Bar Association meeting in Toronto, and will succeed Chief



Justice Randall Shepard of the Indiana Supreme Court as chair of the Section next summer. Also, at the annual meeting in Toronto, Dean Walsh was program chair and moderator for a presidential showcase program on "Comparative Approaches to Teaching and Learning Professionalism." In November, Dean Walsh gave the Arts Honors Program annual convocation address at his alma mater, Providence College.

RON WRIGHT has completed a manuscript for a review essay dealing with a new book on the federal sentencing guidelines. The essay will be published in the *Yale Law Journal* in the spring of 1999. He has been appointed to a three-year term on the Winston-Salem Citizens' Police Review Board. He has also been appointed to the board of directors of North Carolina Prisoner Legal Services.



## An Exceptional Achievement

*Three join fellow Wake Forest alumni  
in Bar Association's Hall of Fame*

Three men of the five lawyers who were inducted into the N.C. General Practice Hall of Fame during the 1998 North Carolina Bar Association Convention in June are Wake Forest School of Law alumni.

The bar inducts into the Hall of Fame members whose "reputations for excellence in all phases of their profession, along with valued contributions to their community, are unrivaled."

According to the North Carolina Bar Association, the Hall of Fame "recognizes lawyers throughout the state based on their exceptional achievements in the law and the areas in which they practice. Although the only requirements are that the candidates have practiced law for 25 years and are still living, the award recognizes lawyers who are role models in our profession."

Wake Forest law alumni Garret Dixon Bailey ('51), Worth H. Hester ('50) of Bladen County, and Dewey W. Wells ('54) were the three lawyers inducted into the Hall of Fame in June, 1998.

Other Wake Forest law graduates inducted into the Hall in previous years are I. Murchison Biggs and Richard A. Williams, Sr., in 1990; R. Lewis Alexander, Fred B. Helms, and Frank H. Watson, in 1991; Wade E. Brown, in 1992; James W. Mason, in 1993; Robert H. (Bob) Burns, Jr., Thomas S. Johnston, J. Brian Scott, and Gerald E. White, Sr., in 1997. ⚖️

□ Dean Janos Bruhacs of the law faculty at Janus Pannonius University in Pecs, Hungary, gave several lectures and attended many law school and University events during a recent visit to Wake Forest. He presented a lecture titled "The Legal Dispute Between Slovakia and Hungary on the Danube" to the law school. He lectured in two law classes, Comparative Law and Environmental Law, as well as an undergraduate Environmental Geography class. He also attended the Justice Joseph Branch Inn of Court meeting and dinner, the University Opening Convocation, and a performance in the Secrest Artist Series.

□ Professor Joel Newman received the Justice Joseph Branch Excellence in Teaching Award at the annual Partners' Banquet.

□ The Forsyth County Bar Association for the Domestic Violence Advocacy Center (DVAC) received the prestigious Harrison Tweed Award at the annual meeting of the American Bar Association held in Toronto. The award is given to a bar association for outstanding leadership in the promotion of free legal services to the poor.

The DVAC is a collaborative effort between the Forsyth County Bar Association through the leadership of Chief Judge Bill Reingold (JD '83), the Wake Forest University School of Law through the leadership of Professor Suzanne Reynolds, and the Legal Aid Society of Northwest North Carolina.

On October 14, a recognition ceremony was held for students who helped create the Domestic Violence Advocacy Center.



Dean Robert Walsh delivers the introduction at the ninth annual Law School Family Day on October 3. More than 350 people attended the event.





# THE LAND OF THE LAW

by Thomas K. Hearn Jr.

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*The last half of this century has witnessed the disappearance of moral consensus in America. The law has filled the void. The crucial question is whether it will use its power for the public good or for its own advancement.*

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## THE RULE OF LAW AND LAWYERS, ABOUT WHICH SO MUCH IS SAID,

has less to do with law and lawyers than with changes in social structures in the last half of this century. The present nature of law and social regulation is derived from and, to a large extent, caused by significant forces that have reordered our world over the past several decades.

Everything we associate with the Twentieth Century, the modern era, belongs to the last half of our century. The Twentieth Century was born with the conclusion of World War II, the Cold War, the advent of the nuclear age, and the mass media. Those of us born before World War II have a Nineteenth Century outlook. Times of profound social change are, by definition, revolutions in societal regulation.

No feature of the Nineteenth Century worldview is more in contrast with present views than the attitude toward change. In my boyhood world, in a small town in north Alabama, permanence and fixity were the first and last order. Change was regarded as a source of peril. But with the advent of the Twentieth Century, the end of the Second World War, and especially with the arrival of the mass media, the notion of change as the first law of society took deep and irreversible root. We came to believe that "new" meant "better," and that progress would be the inevitable outcome of change.

This enthronement of change perhaps had its most pervasive influence in the domain of values. In the hills of Alabama, we were given the same lessons about the same values whether the teaching was at church, at school, at the Boy Scouts, or around the family dining room table. The basic teaching was that there were transcendent norms—laws of the family, of God, and of the state. A well-lived life consisted in conforming one's behavior to these established norms. To be happy, or successful, or to live well in any respect, was a matter of obedience to requirements not of our own choosing or making. The fundamental authorities were the church, the family, and the government. The proper attitude was reverence and worship, and the only possible response was obedience. Moral certainties were clear, and they were above all certain.

The Twentieth Century undid the moral universe of my childhood. If everything changes and improves, then even transcendent norms must be revised and brought up to date. The idea of obedience to authority as the essential prerequisite of the moral life was repudiated. In the Twentieth Century, moral axioms were not transcendent norms but social instruments aimed to improve the happiness or welfare of those who

# THE SPREAD OF THE LAW INTO EVERY DOMAIN OF COMMON LIFE CARRIES NEW RISKS AND RESPONSIBILITIES FOR THE PROFESSION.

lived under them. In a world where change is the defining fact, tradition is an obstacle to innovation and not an inviolate source of authority. Happiness, not virtue or conformity, came to be regarded as the supreme end of the social organization.

The cultural revolution of the Sixties and Seventies represented the triumph of this new moral outlook. This era gave us the sexual revolution and unleashed the menace of drugs, but its fundamental impulse was to repudiate fixed moral authority. People are free to pursue their own ideas of happiness however construed. The traditional seats of authority—the family, the state, religion—were all in various ways compromised by the elevation of impulse to the status of principle.

This new perspective brought the establishment of now all-but-universally held views of moral relativism—that morality is a function of standards which vary over time and culture. Relativism has replaced the certitude of my Nineteenth Century universe. Indeed, this doctrine is widely thought to be the moral equivalent of democracy—everyone's views are as legitimate as anyone else's. To think otherwise is anti-egalitarian.

However fallacious, relativism has taken deep root. The phrase “post-modernism” has spread throughout academic life in recent years as a kind of mantra for the idea that no one's beliefs or values can claim epistemic superiority over those of anyone else. Even modern science is described as only one conceptual system whose validity cannot be established. The work of Thomas Kuhn has given the language the phrase “paradigm shift,” suggesting that science is not a progressive approximation to truth but a series of changes in perspective. Where these ideas invade legal education—and they have—justice becomes a name for a conception that might makes right. If there is no moral system of justice, power is what is at stake in the law.

The implications for social regulation of this revolution, in moral perspective and outlook, are profound. The most important and effective social control is that exercised by the individual over his or her conduct. The more effective that control is, the larger the domain of freedom a society can offer its citizens. The second most important is that domain of behavior which is socially reinforced by small groups—families and extended communities—wherein moral training and development are primarily conducted, and good and bad conduct is praised or punished.

To the extent that the primary system of social control weakens, other less efficient and less democratic mechanisms are required to maintain social functioning. Chief among these mechanisms is the law. Law fills much of the void created by the disappearance of our moral consensus. The law did not create the drug problem, but just that problem alone has vastly expanded the role of the law in public life. There are dozens of other similar issues. In the unprecedented expansion of the scope of law, the legal system is reacting to changes in the social order.

From the military and diplomatic situation of the nation over the last half-century, national consolidation has been an inevitable outcome, beginning with the political system but reaching every segment of society. Power flowed to Washington as the nation was organized to ensure its vital interests against first the fascist, then the communist menace. In each area in which national effort was required, national standards were inevitably imposed. These standards are embodied in law. Law defines the modern economic nation-state we have become. The reach of law followed this national consolidation of every major enterprise.

We see this consolidation perhaps most obviously in the mass media, especially television, which has consolidated popular culture into a single national morass. But the process is everywhere evident. Consider the economy. Locally owned and operated businesses have been replaced by Wal-Mart, Eckerd, Food Fair, and Tru Value. In the Nineteenth Century, relationships between and among local merchants and businesses were personal and communal. Not so in the Twentieth Century. Into the world of commercial transactions, once mediated by friendship and trust, have come arid agreements, impersonal as well as impartial. Those agreements are drafted, and enforced when necessary, by lawyers. The law is now responsible for the climate and the conditions in which normal commercial transactions occur across this nation, even in the smallest hamlet.

In the Nineteenth Century, the law was not a primary, secondary, or tertiary arbiter of social conflict. It was an arbiter in the literal court of last resort. But as the law must now regulate the conditions of daily life, where legal consumer protection must serve in friendship's place, the law is the arbiter of first resort since the relationships upon which all else depends are legally defined.

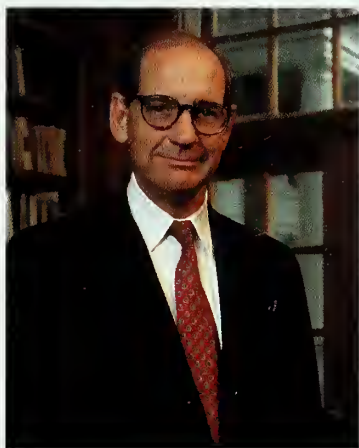


**T**he extraordinary transformation of our political and public life from a system which countenanced the separation and exclusion of people by race to a system which aspires to the values of the founding principles of the Republic is one of the remarkable achievements of our century. The legal achievement of equal opportunity forever altered the role of law in our democratic system. Young social activists who wanted to change the world left divinity schools and social work for where the action was—law school. Change the law and change the world was the source of sustaining and extending the civil rights revolution. Law became the essential source of public advocacy and activism.

Claims of various rights deserving protection have proliferated. It is of course not clear which of these rights do or should enjoy legal protection, but one thing is clear: in this revolution, the law and lawyers play the dramatic leading roles. The result is litigation—some of it trivial, some of it of the greatest importance.

We have reached a state in which we regard getting the rules right as the definition of ethical progress. In the NCAA, where I was much involved for a number of years, there is a mind-numbing system of rules for inter-collegiate athletics. Every violation provokes additional rules of ever-increasing complexity until not even the regulators agree how to interpret them. Moral judgment has given way in athletics to rules compliance.

The NCAA is but a microcosm. Every public and political scandal is met with new regulations. But the notion that right conduct consists in the observance of minutely crafted rules is an illusion. The moral life requires adherence to principle, and no set of rules ever made a scoundrel into a saint. Complex sets of rules do, however, punish saints and give scoundrels easy devices for the practice of deceit. What is lost in detailed regulations is the one essential prerequisite to all problem-solving—that responsible and reflective human judgment be rendered after a full review of the facts. Rules, no matter how many or how clear, can never replace principles—which justify the rules—and judgment which is required to apply principles and rules to the facts of the matter.



**T**he spread of the law into every domain of common life carries new risks and responsibilities for the profession. The gravest result is that the omnipresence of law is manipulated by the profession to provoke litigation artificially and unnecessarily. Every time the system is manipulated, society is harmed and, in the long run, so is the profession. If the profession does not effectively regulate these practices, then I would expect in time the profession's historic freedom of self-regulation to be challenged. Since the law is now the public's business, society will regulate the lawyers as well.

We should begin with legal education to strengthen the ethical and professional curriculum. What we teach in law schools, and what you advocate in the profession, can make a difference to the standards by which the profession lives.

The rule of law is modern democratic civilization's singular achievement. The legal profession must now decide how the massive new influence you have been given will be devoted. If this new influence is used for the profession's advancement, you will be ensnared in the regulatory web of your own spinning. But you can determine that the law will serve—and in a word I use advisedly—will minister to the needs of a free people for a system of justice which advances, and does not impede, the orderly processes by which we live and work. ⚖️

*Thomas K. Hearn Jr. is president of Wake Forest University. The preceding is excerpted from a speech he gave to the North Carolina Bar Association at the Willis Smith and Willis Smith Jr. Ethics in the Profession Forum on June 21, 1998.*







MILLER  
WRIGHT

CRIMINAL  
PROCEDURES  
Cases, Statutes, and  
Executive Materials

by Amy Andrews

# TEACHERS OF TEACHERS

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*The Wake Forest School of Law faculty boasts authorship of an extraordinary number of casebooks used in other school's curricula.*

**UNTIL** the late nineteenth century, most American law professors taught primarily by lecturing about legal principles and asking students to solve problems based on hypothetical facts.

But Christopher Columbus Langdell, dean of the Harvard School of Law, had other ideas about the best way for students to learn. He wanted to use more inductive methods, and he began asking students to read and memorize actual cases so they could discuss and problem-solve during class.

Langdell's methodology caught on, and since then, the case method of teaching has been used widely in American law schools, including Wake Forest. More than 100 years later, students in many classes buy thick casebooks—in which actual cases are reprinted and discussed—for their central reading material, and for the most part they still expect to follow Langdell's model and discuss specific, actual cases in their classes.

What has changed in that time, though, particularly in the past half decade, is that several of those nationally used and respected casebooks—about a dozen—have originated from or been influenced by professors in the East Wing of Wake Forest's Worrell Professional Center.

## TEACHERS OF TEACHERS

In 1998 alone, Wake Forest law professors Ronald F. Wright and Joel S. Newman had new casebooks published on criminal procedures and federal income taxation, respectively, and a fifth edition of Professor Mark A. Hall's collaborative effort on health care law and ethics was published.

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Professor Patricia J. Roberts will be on sabbatical in the spring of 1999 to help write a sixth edition of a casebook on decedents, estates, and trusts. It is scheduled for publication in late 1999.

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In 1994, a second edition of a casebook on land use was published, and for the first time it bore the name of Wake Forest law professor Thomas E. Roberts, who helped its two original authors with the revision. Roberts now is working on a third edition of the book, which should be available in the spring of 1999.

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Steve H. Nickles, C.C. Hope Chair in Law and Management, has collaborated on four casebooks in his career, with one of them having been published in 1996, the year after he came to Wake Forest from the University of Minnesota.

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Marion W. Benfield Jr., University Distinguished Chair Emeritus in Law, has collaborated on two casebooks, one on the sale and leasing of goods and the other on payment systems.







Opposite page: Thomas E. Roberts finds that writing a casebook has been helpful to him as a teacher. Left: Ronald F. Wright began to feel that existing casebooks didn't adequately cover the changes in criminal procedures in recent years.

According to Wake Forest School of Law Dean Robert K. Walsh, that's an impressive number of casebooks coming from a fairly small faculty, and it brings prestige and attention to the professors and to the school. "As authors of these national casebooks, the members of our law faculty have become teachers of law teachers," he said.

So what accounts for this mushrooming? "Some of it is just chance," said Ronald F. Wright, the co-author of *Criminal Procedures: Cases, Statutes and Executive Materials*, which was published in the spring of 1998. Some of it, he added, is that when professors discuss their projects, it sparks an interest in others.

But a desire to do an interesting project does not automatically make for a casebook that a teacher would want to use. An author must have something new to offer his colleagues, something new worth teaching them and their students. Wright said he thinks that Wake Forest professors have plenty to offer. "We have a longstanding commitment to teaching, and this is one way to capitalize on that tradition," he said.

For a decade, Wright has influenced the thinking and guided the learning of dozens of students at Wake Forest. Now, with the publication of his casebook, he not only has an up-to-date resource for his criminal-procedures classes; he and Marc L. Miller, his co-author and a professor at the Emory University School of Law, also have a resource from which other students and teachers across the nation can learn.

"I really treasure being able to have some influence on Wake Forest students, but this casebook, through teachers in other places, helps me reach law students all over the country," Wright said.

After using several casebooks for his course on criminal procedures, Wright said he began to feel that they didn't adequately cover the changes that had occurred in the field in recent years. Many of those books focused on the criminal procedures established in the 1960s by the U.S. Supreme Court. But the Court in the past two decades has been looking to other institutions to set policy, from state supreme courts and legislatures to police departments and prosecutors' offices. The other casebooks did not reflect that shift.

"We felt the course needed to change, and the only way to change a course is to change the available materials," Wright said. In addition to cases, the authors included statutes and other materials such as a job description from an Indianapolis police department manual and a form from the Philadelphia police department. Other supplemental material, from class notes to sample examinations, that wouldn't fit in the 1,866-page book is included on a Web site for teachers and students. Teachers can send comments about the book electronically to Miller and Wright and post it on the site for others to read.

Jonathan Simon, a law professor at the University of Miami, is one of a dozen professors nationwide who used the casebook this past semester and has posted several messages on its Web site.



"It's sometimes very, very helpful to just get a different perspective, for example to ask (other professors) what are they teaching about this (particular) case," he said. With the three previous casebooks he's used, he's never contacted the authors to ask questions or offer his comments. But the technology available today makes such communications easier and more common, he said, and it certainly helps promote the idea that a casebook author is a teacher of teachers.

Several of the casebook authors on Wake Forest's faculty never had thought of themselves that way, while others embraced the idea.

Thomas E. Roberts occasionally gets telephone calls or letters from people commenting on his casebook on land use, but he hesitates to call himself a teacher of teachers. Roberts was invited by David L. Callies of the University of Hawaii and Robert H. Freilich of the University of Missouri at Kansas City, who wrote the first edition of the casebook on land use in 1986, to work with them on the second edition. Roberts said he would feel presumptuous to characterize himself as a teacher of teachers, especially since many law professors who specialize in land-use regulation have as much or more experience than he. "I feel like I'm giving them a tool they can use in their classroom," he said.

Writing a casebook has been meaningful, Roberts said, and it has been helpful to him as a teacher, preparing and organizing for class. But it's only one of a number of things that he writes and does. "Beyond the confines of the building here, it's given me more visibility in professional mediums," he said. He's also active in the American Bar Association and works closely with a number of land-use lawyers, both of which also give him credibility and visibility.

Other professors may focus more on writing law review articles or getting involved with professional associations, and the administration of the Wake Forest School of Law has shown support for professors' varying interests, Roberts said. "I think it's good we're not all the same," he added.

## TEACHING, PUBLISHING, AND BEYOND

Steve H. Nickles, who has written or co-written four casebooks and a variety of other materials, including treatises, feels similarly to Roberts. Nickles said he doesn't feel very influential as a casebook author but does feel he's improved his own teaching by writing casebooks. It's made him think through and organize the subjects better than he might have otherwise, he said.

Having more casebook authors on Wake Forest's law faculty is a positive development, Nickles said, even though in the larger legal academy,

writing teaching materials of any kind generally is not considered as substantial as writing done for a law review. "I think they're providing a service," Nickles said of casebook authors, adding that it shows they have a larger interest in the conceptual order of the law.

Nickles said he believes that for legal researchers or teachers, any effort that is beyond what is minimally required is good. "Though any kind of writing is important, that writing is not more important than other activities, other efforts, other endeavors of faculty that contribute to intellectual development," Nickles said. "I think we sometimes put too much emphasis on legal education in publishing."

Joel S. Newman, whose casebook on federal income taxation recently was published, said he feels that casebook authors have the opportunity to affect hundreds of people, but it's basically old material put into a new framework. "Casebooks are nice, and there's a fair amount of prestige with writing a casebook," he said. "But they're not scholarship."

Newman wanted to call his casebook "My First Big Book of Tax," in an attempt to entertain while educating. But while the publishers would not let him call it that, or his second title, "Federal Income Taxation: Cases, Problems and Stuff," he said he still was able to retain the colorful aspects of the book by including four poems, a cartoon, and one obituary. And, he's glad to be done with the book, which he worked on for three years and eventually called, "Federal Income Taxation: Cases, Problems and Materials." Wake Forest law Professor David E. Shores contributed a couple of chapters.

Newman buys into the idea that he has become a teacher of teachers. Like Wright, he occasionally hears from users of his casebook via electronic mail. "Other teachers will write to me and say, 'Why did you say that? How might you teach that?'" Newman said.





*Far left: Steve H. Nickles sees casebook authoring as a service. Center: a Web site complements Mark A. Hall's casebook on health care law and ethics. Right: Joel S. Newman strived to make his tax casebook entertaining as well as educational.*

When William Curran, Harvard professor of legal medicine, wrote the first edition of "Health Care Law and Ethics" in 1960, it was the first one in its field. And Mark Hall was five years old.

The casebook launched health-care law and provided a real resource for students and teachers, and Hall helped revise the book for the fourth edition published in 1988 and the fifth edition published in 1998.

When Hall came on board for the fourth edition, he did so as a junior author who had just come out of a legal practice that represented hospitals and had kept current with new bodies of law and issues that were arising. Curran and Hall together developed a plan for the fifth edition, but Curran retired, developed a serious illness, and died before the book could be reissued. Hall—now the senior author—said that for the fifth edition, he was able to take a step back, look at the entire field of health-care law, and develop his own thoughts as he directed the casebook's shape and content.

"I want to carry on the tradition of writing a book not only as a teaching tool but also as a resource for research," he said. A Web site also complements Hall's book to provide updated materials.

**A NEW MEDIUM** Patricia Roberts received a telephone call in January 1998 from Eugene F. Scoles and Edward C. Halbach Jr., who have written five editions of "Problems and Materials on Decedents, Estates and Trusts" and were looking for help on a sixth.

Writing a casebook was not something to which she had aspired, though she had been asked about writing a first edition of another casebook

and was deciding on that when Halbach and Scoles called. She was surprised, because even though Halbach had reviewed one of her articles when she was up for tenure, "he really is a big name in the business," she said.

Halbach was involved in too many other projects to update the casebook, so Roberts and Ron Link, a law professor at the University of North Carolina at Chapel Hill, will do it.

"I feel good about it," she said. "It's not considered as scholarly (a project) as some big law-review articles that get published. But I think it's something that's going to be good for the University."

**WHERE WILL IT LEAD?** Mark Hall said he thinks Wake Forest's near-sudden presence on the casebook market is quite an impressive trend. "It establishes faculty as experts in their field when they have a casebook," and casebooks often influence larger numbers of people than do the more scholarly law review articles, he said. "I think good casebooks do point the way toward new intellectual developments and can stimulate other researchers to develop new ideas."

Casebook publication also influences a faculty, he said, noting that at Wake Forest now there is a critical mass of people who have learned from each other about writing casebooks. "It's appreciated here."

Ron Wright agreed. "I think there are different ways of being influential, and I think we could sustain this with casebooks," he said. "I think this is not just a fluke. I think Wake Forest could start to get a reputation as a place where high-quality teaching materials come from." ☞

## ALUMNI NOTES

## 1956

EUGENE BOYCE (BS '54) recently steered a class action lawsuit that netted state and federal retirees a settlement of \$799 million in refunds and restored \$3.2 billion in future benefits from the government of North Carolina. In the case, he successfully claimed that public pensions were illegally taxed from 1989 to 1997.

## 1962

BRUCE BIGGS has been appointed by Governor Jim Hunt to the bench of North Carolina's 24th District Court, covering Avery, Madison, Mitchell, Watauga, and Yancey counties. He is a former state senator.

## 1963

FRED G. MORRISON JR. was presented a key to the city of Newport, TN, and recognized as one of its outstanding former citizens for his work as the senior administrative law judge for the State of North Carolina. In June he completed Harvard University's program of instruction for lawyers.

WILLIAM REGINALD SIGMON SR. is a member of the Hickory, NC, law firm of Sigmon, Clark, Mackie, Button & Harvey, which recently relocated its offices to the old library building in Hickory's historic Oakwood section.

## 1964

LARRY B. SITTON (BA '61) was elected president of the North Carolina Bar Association. He is an attorney with the firm of Smith Helms Mulliss & Moore in Greensboro, NC. He also has served on the board of directors of the Greensboro Cerebral Palsy Association, the board of trustees at North Carolina A&T University, and as legal counsel for the United Way.

## 1965

WALTER W. PITT JR. has been selected as chair of the bankruptcy section of the North Carolina Bar Association. He is a partner at the Winston-Salem firm of Bell, Davis & Pitt, PA.

## 1966

STEVE GLASS (BA '63) has opened the firm of Glass & Vining in Cary, NC.

## 1969

ALLAN B. HEAD (BA '66) recently attended the American Bar Association's Leadership Institute in Chicago, IL. He is executive director for the North Carolina Bar Association.

## 1973

JAMES R. FOLEY is director of the Southern Animal Law Center in Huntsville, AL, which provides free legal services for animal-related cases and publishes an animal law newsletter.

## 1975

MICHAEL R. GREESON JR. has opened a new law practice in Winston-Salem, Greensboro & Vale, with PATRICK G. VALE (JD '88).

WILLIAM "BILL" WHEELER was named general counsel for Lees-McRae College by its board of directors. He is a managing partner with the High Point, NC, law firm of Wyatt Early Harris & Wheeler, LLP.

## 1977

LUCIEN "SKIP" CAPONE was appointed to the North Carolina Grievance Resolution Board, which makes policy recommendations to the state Secretary of Corrections. He is University Counsel at UNC-Greensboro.

JULIA VIRGINIA JONES has retired from the bench as a superior court judge in Charlotte.

## 1978

REGINALD COMBS (BA '76) recently attended the American Bar Association's Leadership Institute in Chicago, IL. He is president of the Forsyth County Bar Association.

MEL JOSEPH GAROFALO has been appointed to the board of the North Carolina Association of Defense Attorneys.



ELIZABETH ELLEN "LISA" RANDALL has been appointed to the position of vice president of project development and community relations for the New Jersey Sports and Exposition Authority. She is the outgoing state banking and insurance commissioner for New Jersey.

## 1981

ELLIS BRANCH DREW III has joined the Winston-Salem firm of Wells, Jenkins, Lucas & Jenkins as a partner.

SUSAN A. RICHARDS has joined the firm of Foley & Lardner in Washington, DC. Previously she was associated with the firm of Fish & Richardson, PC.

## 1982

GARY K. JOYNER has been appointed to the executive committee of the firm of Kilpatrick Stockton.

## 1983

LEWIS B. GARDNER is a partner at the firm of Brown McCarroll in Austin, TX.

LOUIS B. MEYER III (BA '80) recently attended the American Bar Association's Leadership Institute in Chicago, IL. He is president-elect of the Wake County Bar Association.

WILLIAM B. REINGOLD and the Domestic Violence Advocacy Center of the Forsyth County Bar Association received the 1998 Harrison Tweed Award for outstanding leadership in pro bono legal services, presented by the American Bar Association.

## 1984

STEPHEN BERLIN (BA '81) has been elected chairman of the State Bar's 21st District ethics and grievance committee. He is a partner in the firm of Kilpatrick Stockton in Winston-Salem and is an adjunct professor at Wake Forest University.

## 1985

ROBERT M. BLEND has started his own law firm, The Blend Law Firm, PC, in Dallas, TX.

PETER JENNINGS has accepted a position with Dow Chemical Company's legal department in the Pacific area. He and his family relocated to Hong Kong in August.

## 1986

JAMES E. MEADOWS is now an attorney with the firm of Alston & Bird, LLP, in Atlanta, GA. His practice focuses on technology law, including electronic commerce and outsourcing matters.

RUSSELL J. SCHUMACHER has joined the law firm of Rand, Algeier, Tosti & Woodruff, PC, in Morristown, NJ. He continues to practice in the areas of education law and labor relations.

# LAW FUND UPDATE

As of early November, \$82,370 had been received toward the goal of \$500,000, according to Mike Wells (JD '74) of Winston-Salem, chair of the campaign. Volunteers are working hard to surpass the Law Fund goal by June 30, 1999, and your support is greatly appreciated.

## 1988

JOHN NEWTON TAYLOR JR. (BA '85) was named a partner at Robinson Lawing et al. in Winston-Salem, NC.

PATRICK G. VALE has opened a new law firm in Winston-Salem, Greens & Vale, with MICHAEL R. GREESON JR. (JD '75).

BETH WELLER has been made a partner in the firm of Linebarger Heard Goggan Blair Graham Pena & Sampson, LLP, in Houston, TX.

Her practice specializes in representing creditors in bankruptcy procedures.

## 1990

F. ELIZABETH CLEMENT COSS has joined the trusts and estates practice group at Womble Carlyle in Charlotte, NC.

JOHN D. YOUNG JR. (BS '82) is a partner in the New York firm of Sullivan & Cromwell. He currently works in the firm's Hong Kong office.



PERRY THOMPSON/COLLECTION OF THE SUPREME COURT OF THE UNITED STATES

FOURTEEN ALUMNI spent a weekend in Washington, D.C., before being admitted to the Supreme Court of the United States last April. Weekend activities included an alumni reception hosted by Charles Camp (JD '82) and the law firm of Patton Boggs. The group met with General William Suter, Clerk of the Court, and Associate Justice Sandra Day O'Connor at breakfast prior to the admissions ceremony.

Pictured from left to right

Row 1: Carol Allen (JD '80), Vinnie Convery Jr. (JD '71), Karen Linz (JD '92), Ashley Hogewood Jr. (BA '61, JD '63), Julie Sandine (JD '92), Dean Bob Walsh, Bobbi Gomez (BA '86, JD '89), Mark Gomez (BA '86, JD '89), Steve Berlin (BA '81, JD '84), Tom Comerford Jr. (BA '72, JD '74)

Row 2: Bobby Martin (BA '61, JD '64), George Mast (BA '58, JD '60), Dick Lupo (JD '85), Bill Kafer (BA '66, JD '69), John Lassiter (BA '76, JD '80), Associate Dean James Taylor Jr.



## 1991

PAULA DURST GILLIS has become a member of Spilman Thomas & Battle, PLLC. She works in the firm's Charleston, WV office.

HENRY A. MITCHELL III has opened the firm of Solomon & Mitchell, PLLC, in Durham, NC.

TIMOTHY P. VEITH has joined the Charlotte, NC, office of Nelson Mullins Riley & Scarborough, LLP, as a partner in the firm's corporate finance and securities group.

## 1992

GREGORY D. HENSHAW and MARY WRAY HENSHAW (BA '89, MBA '91) have moved to 3450 Transou Road, Pfafftown, NC 27040. Their phone number is (336) 922-3969.

## 1993

LISA MARIE ANGEL was recognized by the *Raleigh News & Observer* for her work organizing Project Together, which trains volunteer lawyers to handle domestic violence cases for free.

REGINA ROBINSON GILLESPIE has a solo law practice specializing in real property, criminal, and domestic law, with offices in Mount Airy, NC, and Dobson, NC.

MARTIN JAMES GOTT-HOLM has been elected district court judge for the 22nd Judicial District.

LINDA HARMAN has become a partner in the Elizabeth City, NC, firm of Trimpi, Nash & Harman, where she has worked since 1993. She is the attorney for the Albermarle child support agency's guardian ad litem program and also is a member of the paralegal advisory committee at the College of Albemarle.

KEN HUNT (BA '87, MBA '93) is director of commercial development for designer fibers at Monsanto in St. Louis, MO, where he resides with his wife, KAREN HINSHAW HUNT (BS '87, MBA '94).

STACY YODER is an assistant district attorney in North Carolina's 23rd Judicial District.

## 1994

C. LYNN PATTERSON GARGIS (BA '91) joined the firm of Womble Carlyle Sandridge & Rice PLLC in Winston-Salem. She is an associate attorney in the trusts and estates practice group. She and her husband, NEIL GARGIS (BA '92), reside in Clemmons, NC.

MICHAEL J. McCORMICK has become a partner in the law firm of Bond & Botes, PC. He is the managing attorney in the firm's Biloxi, MS, office, concentrating in the area of consumer bankruptcy law. He also assists a congressional commission on the effects of legalized gambling.

BRETT D. SOVINE recently received a master of law in taxation from Georgetown University and joined the Charlotte, NC, office of Poyner and Spruill, LLP, where he is a tax and estate planning associate.

## 1995

WILLIAM C. BREWER has joined the law firm of Stokes & Bartholomew as an associate.

JENNA FRUECHTENICHT BUTLER (BA '92) is with the law firm of Ward and Smith, PA, in Wilmington, NC, where she resides with her husband, Algernon L. Butler III.

JEFFREY A. KRAMER has joined the firm of Lowenstein Sandler, PC, in Budd Lake, NJ. He is an associate in the litigation department.

## 1996

M. LEAH HUDSON (MBA '96) has joined the corporate and securities group of the Texas-based, international law firm of Akin, Gump, Strauss, Hauer & Feld, LLP, in its Washington, DC, office.

PHILIP S. LAMAR JR. is employed at The Barrington Group, Inc., an overseas financial services firm located in the Republic of Panama.

## 1997

CHARLIE D. BROWN (BA '92, MBA '97) is an estate planning advisor and trust officer with Wachovia in Winston-Salem. He resides in Winston-Salem with his wife, Crissy, and daughter, Bailey.

## 1998

MARCUS S. LEE (BA '93, MBA '98) is an associate attorney in the corporate group of the law firm of Smith Helms Mulliss & Moore, LLP, in Charlotte, NC.

JEAN SUTTON MARTIN (BS '89) has joined the law firm of Blanco Tackabery Combs & Matamoros, PA, in Winston-Salem. Her practice will concentrate in general business transactions.

ZACHARY MONROE MORETZ has joined the law firm of Vernon, Vernon, Wooten, Brown, Andrews & Garrett, PA, as an associate.

MARCIA PENNEFATHER (MBA '98) has joined Wachovia Bank in the legal division's commercial practice group.

## MARRIAGES

REGINA ROBINSON (JD '93) and James Davis Gillespie. 7/11/98

JENNA FRUECHTENICHT (BA '92, JD '95) and Algernon L. Butler III. 8/25/98

WINSTON LLOYD (JD '95) and Lesley K. Vauclain (MBA '98). 9/12/98

LAURA NICOLE PASSIMENT (JD '97) and ALAN HUNTLEY STOKES (BS '93). 8/29/98

JEAN SUTTON (BA '89, JD '98) and Gilmer Martin II. 9/5/98

## BIRTH

### ANNOUNCEMENTS

KENNETH S. LUCAS JR. (JD '85) and Beth Lucas, Greensboro, NC: son, John Paul. 3/22/98

DAVID M. ELDRIDGE (JD '86) and Connie Eldridge, Knoxville, TN: son, Paul Ventress Crockett. 6/2/98

BETH WELLER (JD '88) and Bill Parkinson, Carrollton, TX: daughter, Erin Elizabeth. 9/18/97

ROBERT J. HIGDON JR. (BA '85, JD '89) and Corinne Higdon, Charlotte, NC: son, Robert Claiborne. 3/11/98

## DEAN W.

HOLLANDSWORTH (JD '89) and Barbara A. Hollandsworth, Asheboro, NC: son, Seth Robert. 12/10/97

JAMES P. HUTCHERSON (BA '83, JD '89) and ELIZABETH HUTCHERSON (BA '86), Advance, NC: daughter, Campbell Elizabeth. 4/27/98

MIMI M. JONES (JD '92) and Jeff Jones, Harrodsburg, KY: daughter, Darby Rose. 7/28/98

## ELLIS NASSIF (JD '30)

September 6, 1998, Wake Forest, NC. Born in Lebanon, his family immigrated to the United States in 1913. After practicing law in Smithfield, NC, for two years, he opened an office in Raleigh in 1934, where he practiced until his retirement in 1994. A United States Army veteran of World War II, he was active in the Lion's Club and the Boy Scouts of America.

W. DOUGLAS WATSON (JD '64) March 2, 1998, Boulder, CO.

## OBITUARY

FRED B. HELMS (JD '22) August 25, 1998, Charlotte, NC. A recipient of Wake Forest's Distinguished Service Medallion, he was a founding partner of Smith Helms Mullis & Moore. During World War I, he was a second lieutenant in the Army Field Artillery. He was Charlotte's prosecuting attorney from 1925 to 1927 and a Mecklenburg County judge from 1927 to 1931. He was a former president of the Mecklenburg and North Carolina bar associations and was inducted into the North Carolina Bar Association's General Practice Hall of Fame. A former trustee of Wingate College, he received that school's Distinguished Alumnus Award. In 1932 he organized and became first president of the Charlotte Community Chest, now the United Way.

DONALD EUGENE WEIR (BA '62, JD '65) June 18, 1998, San Antonio, TX. He served in the United States Air Force for thirty years, twenty of which as a distinguished trial judge, before retiring with the rank of colonel. After retirement he worked as a hearing officer for the Texas Workers Compensation Commission. He is survived by his wife, Nancy.



Leon Corbett (BA '59, JD '61), right, with running buddy and friend Allan Head (BA '66, JD '69) at the finish line of the 5K run at the NC Bar Association annual meeting in Myrtle Beach.



## Wake Forest University Spring Schedule 1999

## CONTINUING LEGAL EDUCATION

Website: <http://www.law.wfu.edu/cle>

(336) 758-4550/4551 fax (336) 758-1687

**Practical Legal Ethics - 3 hours**

January 8	<b>Live</b>	McKimmon Center	Raleigh
February 12	Video	Holiday Inn Select	Winston-Salem
February 26	Video	Four Points Hotel	Charlotte
April 23	Video	Grove Park Inn	Asheville

**Real Property - 12 hours (9 PSC, 2 EC)**

February 18-19	<b>Live</b>	McKimmon Center	Raleigh
February 25-26	Video	Holiday Inn Select	Winston-Salem
March 25-26	Video	Four Points Hotel	Charlotte
April 8-9	Video	Grove Park Inn	Asheville
May 27-28	Video	Blockade Runner	Wrightsville Beach

**Insurance Law - 6 hours (4.5 PSC, 1 EC)**

March 12	<b>Live</b>	McKimmon Center	Raleigh
April 23	Video	Holiday Inn Select	Winston-Salem
May 7	Video	Grove Park Inn	Asheville
May 14	Video	Four Points Hotel	Charlotte

**Civil Litigation - 12 hours (9 PSC, 2 EC)**

April 15-16	<b>Live</b>	McKimmon Center	Raleigh
April 29-30	Video	Four Points Hotel	Charlotte
May 20-21	Video	Holiday Inn Select	Winston-Salem
June 3-4	Video	Grove Park Inn	Asheville

**Current Employment Law - 12 hours (1 EC)**

April 8-9	<b>Live</b>	Loews L'Enfant Plaza	Washington, DC
April 22-23	<b>Live</b>	Grove Park Inn	Asheville
May 27-28	<b>Live</b>	Hilton Resort	Hilton Head, SC
June 17-18	<b>Live</b>	Sheraton Chicago Hotel	Chicago, IL

## G. EUGENE BOYCE

*A gift of a lifetime*

**T**wo middle-aged men in downtown Raleigh see lawyer G. Eugene Boyce (BS '54, JD '56) walking their way and recognize an opportunity. "Here, Gene," they begin, as he gets closer, "here's 13 cents we found lying around here. Thought you might need it." Boyce, playing along, reaches out for the change. "This your seven cents and his six?" Boyce asks one of the men, making sure he has each benefactor duly noted. The men banter with him for a moment more, then wave as he walks off jingling the change in his hand.

Boyce lately has been the subject of plenty of good-natured teasing.

For the past nine years, he has been the lead trial counsel in several major class actions for local, federal, state and military retirees and retired teachers, disabled state retirees, and intangibles taxpayers. He won the Faulkenbury case involving the taxation of disabled retirees, the Smith case involving intangibles-tax cases, and—most recently and most notably because of the large settlement amount—the Bailey case, which involved state and federal retirees. Judgments in the cases are in excess of \$1.6 billion.

The N.C. Supreme Court ruled in May 1998 in the Bailey case, saying that state and federal government retirees' pensions should not have been taxed. The settlement in the case will result in \$799 million being disbursed to plaintiffs by the end of July 1999, and it provides for an additional \$3.2 billion in future tax savings.

Attorneys' fees, which Boyce will have to share with his former law firm, Womble Carlyle Sandridge and Rice, also could be staggering. Though 15 percent of the Bailey settlement fund has been set aside for payment of litigation costs, administrative expenses and attorneys' fees, Boyce petitioned the courts to simply award a "fair amount" to attorneys.

But a decision in that matter isn't expected until early 1999, and on the autumn day that Boyce accepted the 13 cents from his two acquaintances, he had been working on the Bailey case for nine years and had yet to be paid a penny for it.

Boyce, who has practiced law for 42 years, accepted the class-action cases on contingency, meaning he would be paid only if he won. And against the state, which theoretically at least has unlimited resources and plenty of lawyer-power, there are no guarantees of winning.

"My criteria has always been to take a look at what happened (to a client)—is it right or is it wrong?" he says. "I don't think I've ever turned anything down as long as it was wrong. How long it would take, how much it would cost, never bothered me."

Boyce has taken many cases on contingency through the years, cases

*Through the years he has taken many cases other lawyers wouldn't touch.*

other lawyers wouldn't touch, and he's lost plenty of them. But he says that while he believed his clients were on the right side in the class-action cases, he never realized that the cases would last so long. "I had no idea," he says, rolling his brown eyes and rubbing his face.

That's part of the reason Boyce left Womble Carlyle in 1996. He says he felt like he wasn't doing his part to bring in other clients and some income—all of his attention was being devoted to the class-action cases. "It's embarrassing not to be carrying your load, when you've been used to doing that," he says.

Since leaving Womble Carlyle, Boyce has been in private practice, along with his son, R. Daniel "Dan" Boyce (BS '81), who specializes in criminal law. Boyce's youngest daughter, Laura B. Isley (BS '89, JD '92) and her husband, Philip, joined the practice in 1998.

The Boyces' ties to Wake Forest are strong. Boyce's wife, Patricia (BS, '54), and oldest daughter, Cathy B. Howard (BS '79) also are Wake Forest alumni, as is Boyce's oldest brother and his wife.

Boyce's brother decided in first grade that he one day wanted to be a doctor, and he graduated from the Bowman Gray School of Medicine in 1955. Gene Boyce's decision to be a lawyer didn't come quite so early and clearly.

"We didn't have a lot of money, and he got the microscope, so I had to be a lawyer," says Boyce, only half-jokingly. He grew up in Raleigh, the son of a *Raleigh Times* composing-room foreman, and his first job, at age 14, was re-melting metal for the linotype machine.

Boyce became interested in fingerprinting and crime-scene investigating later when his cousin, who was in the military criminal-investigation division, brought home some out-of-date training manuals. Boyce started reading and was hooked on the scientific aspects of criminal investigation. He went to law school at Wake Forest with the intention of one day working for the Federal Bureau of Investigation.

"It wasn't until my third year (at Wake) I thought about private practice," he says. A friend had entered the FBI and hadn't liked it, and then Dr. Beverly Lake Sr., who later became a state Supreme Court justice, spoke at Boyce's fraternity banquet. Boyce asked Lake about private practice, and Lake suggested Boyce visit him upon graduating and passing the bar. When Boyce did, Lake asked him to work for him and A.J. Fletcher in Raleigh, Boyce's hometown, for \$250 a month.





Boyce did so for about seven months, before entering the U.S. Army. He graduated from the U.S. Army Judge Advocate General Corps School in 1957 and was a general courts martial prosecutor and defense counsel at Fort Bragg from 1957 to 1960. He returned to Raleigh in 1960 and started his own practice until Lake and Fletcher invited him to become a partner in their law firm. The firm evolved through the years, but Boyce remained a partner in it until 1986, when he helped Womble Carlyle open up a law litigation office in Raleigh.

During his career he also was assistant majority counsel and assistant staff director for Sen. Sam Ervin's Senate Select Committee on 1972 Presidential Campaign Activities (Watergate), and majority counsel of the team that discovered the Nixon tapes in July 1973. He also founded and was a lecturer for 15 years of the N.C. Annual Review Institute at the Wake Forest School of Law.

The 66-year-old Boyce relaxes by golfing, fishing, and reading law cases, and he says he briefly entertained thoughts of retiring two years ago when he received notice that it was time to apply for his Medicare card. He decided he couldn't leave law, though.

"I absolutely love it," he says. "Still do. I can't get away from it."

All he asks for is a small office, where he can leave his jumbled mounds of paper, boxes and the office furniture he bought at a discount store and assembled by himself. "As long as they give me a little place to sit," he says of his children, "I can do what I want to do without too much stress."

Then, he has an afterthought. "I wouldn't mind improving my putting a little bit," he adds. "I just don't want the pressure of having the lead job anymore. I just want to be here."

—Amy Andrews

# SPRING REUNION

April 30 – May 1, 1999



*Join classmates and faculty at the  
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Please call your class contact below, or the Office of Law Development and Alumni Relations at 1-800-752-8568. A full schedule of events will be mailed to each class member prior to the reunion.

## CLASS CONTACTS:

### 1949

Horace Kornegay  
336-373-1600

### 1959

Jack Webster  
336-427-0003

### 1974

Tom Comerford  
336-631-8510

### 1979

John Yorke and  
Kay Donahue  
704-343-2000 and  
336-728-7113

### 1989

Bobbi Gomez  
404-420-5537





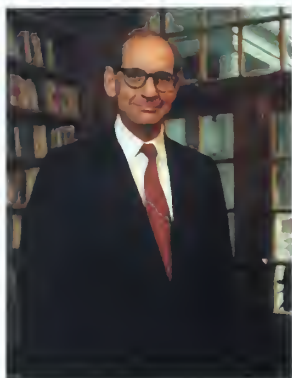
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